

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-040-W/S - ORDER NO. 96-431
JUNE 26, 1996

JS

IN RE: Request of Carolina Water Service, Inc.) ORDER GRANTING
for Recovery of Costs for Bulk Water) MOTION TO COMPEL
and Sewer Services for River Hills) RESPONSES TO
Service Area in York County,) DISCOVERY REQUESTS
South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motions to Compel Responses to Discovery Requests filed by Carolina Water Service, Inc. (the Company or CWS). The Company's Motions seek an Order of the Commission compelling the several Intervenorors to whom the Motions are directed to respond to certain Interrogatories and Requests for Production which were dated May 3, 1996, and which were served on the Intervenorors. The Motions to Compel are directed to the Stephen F. Kelly, P.E., representative of River Hills Community Association, Inc.; Norman North, representative of the Five Points Community Association; Ronald W. Montgomery, representative of the Lake Wylie Independent Businesses; Bobby L. Hambright and Daniel P. Martin, representatives of the Riverfront Association; Jonathan Edwards, representative of the Oak Ridge Community; Daniel T. Credle, representative of YMCA Camp Thunderbird; John E. Allen, representative of Lake Wylie Merchants Association; and David W. Weldon, representative of River Hills Marina Club, Inc.

The Company's Motions state that the Company served the various Intervenor with the discovery requests on May 3, 1996. The discovery requests requested responses within twenty-one (21) days of the date of service. One Intervenor, River Hills Community Association (the Association), through its spokesperson, advised CWS that the Association expected CWS to re-serve its discovery requests in light of the Commission's determination to reschedule the previously scheduled hearing in this proceeding. CWS treated the letter from the Association as a request for an extension of time and extended the time for response by the Association to the discovery requests until June 14, 1996. Thereafter, the Association advised the Company that it would respond to the discovery requests by August 12, 1996. The Company's Motions state that no other Intervenor made any response or objection to the discovery requests, but the Motions did indicate that the spokesperson for the Association advised CWS that he was responsible for the other Intervenor's failure to respond, ostensibly by advising the other Intervenor of his communications with the Company and of the extension of time to respond granted to the Association.

After service of the Motion to Compel, several Intervenor filed responses to the Motion. The spokesperson of the River Hills Community Association also filed a response and included a Motion to Compel Reissue of Discovery Requests. The responses filed by the Intervenor request that the Commission not grant the Company's Motion to Compel Responses to Discovery Requests.

The Commission's Rules and Regulations provide for discovery in a proceeding before the Commission, as well as provide for the pre-filing of testimony and exhibits expected to be used in a hearing before the Commission. However, discovery methods (such as written interrogatories and requests for production) and the pre-filing of testimony and exhibits are two separate matters, and each must be completed and complied with to allow for a full and fair proceeding.

Therefore, upon full consideration of the Motions to Compel Responses to Discovery Requests and of the Discovery Requests themselves, the Commission makes the following determination and ruling:

(1) The Motions to Compel Responses to Discovery Requests should be granted.

(2) Responses to the discovery requests shall be served on the Company and a copy filed with the Commission on or before July 16, 1996.

(3) The Requests for Production of Documents relating to copies of testimony of each person identified as a potential witness and the Requests for Production of Documents relating to any exhibits intended to be offered into evidence are denied as these two requests are tantamount to pre-filed testimony and exhibits which are required to be filed by the Intervenor on August 13, 1996, pursuant to Commission Order No. 96-352, Order Setting Hearing Dates and Modifying Pre-filing Dates.

As the Commission has granted the Motion to Compel Responses

to Discovery Requests, the Commission must deny the Motion to Compel Reissue of Discovery Requests filed with the Association's response.

IT IS THEREFORE ORDERED THAT:

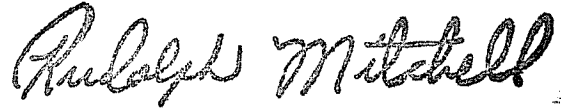
1. All Intervenors shall respond to the discovery requests propounded by CWS and dated May 3, 1996. Responses shall be served upon CWS and a copy filed with the Commission on or before July 16, 1996.

2. The Requests for Production of Documents which request the production of copies of testimony of witnesses or which request the production of copies of exhibits intended to be offered at the hearing are denied, and the Intervenors do not need to respond to those two Requests for Production of Documents. This information is tantamount to pre-filed testimony and exhibits. Pre-filed testimony and copies of exhibits to be offered at the hearing are due to be filed by the Intervenors on or before August 13, 1996, pursuant to Commission Order 96-352, Order Setting Hearing Dates and Modifying Pre-filing Dates.

3. The Association's Motion to Compel Reissue of Discovery Requests is denied.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)